



Contract Number

ITD-23013

SAP Number

N/A

Innovation and Technology Department

Department Contract Representative
Telephone Number

Adrian Danczyk
(909) 388-0534

Customer
Customer Representative
Telephone Number
Contract Term
Original Contract Amount
Amendment Amount
Total Contract Amount
Cost Center

City of Upland (6000-00NF)
SGT Marci Williams
(909) 931-4106
7/1/2023 – 6/30/2028
Based on Actual Usage
N/A
Based on Actual Usage
Varies

INFORMATION TECHNOLOGY SERVICE REVENUE CONTRACT

This CONTRACT is entered into in the State of California by and between San Bernardino County, hereinafter called, "County", and the City of Upland, hereinafter called "Customer".

Name

City of Upland

Address

1499 W. 13th Street

Upland, CA 91786

Telephone

(909) 931 - 4106

Federal ID No. or Social Security No.

95-6000805

IT IS HEREBY AGREED AS FOLLOWS:

A. CONTRACTED SERVICES (Select all that apply):

☒ **General ITD Services (Attachment A)**

Defined as all services contained in Attachment A "ITD Rate Sheet – External Customers" with exception to Public Safety Communication Services.

☒ **Public Safety Communications Services (Attachment B)**

Defined under Public Safety Communication Services in Attachment B "ITD Rate Sheet – External Customers".

☐ **Wide Area Network (WAN) Services (Attachment C)**

Defined in Attachment C "Wide Area Network Services".

B. PROVISION OF SERVICES

This is the County standard revenue contract to provide information technology services, hereinafter, "Services," to Customer by the County Innovation and Technology Department, hereinafter, "ITD". Customer understands that County may elect to have other vendors provide similar professional services under other contracts.

All Services available under this Contract are listed in full in the Attachments and are detailed by Service name, Service description, rate, and charge measurement as applicable and as identified in the Attachments.

Services are initiated at Customer's request, subject to ITD's acceptance, and consist of the following types of charges, as further set forth in the Attachments:

- B.1** Per item; one-time charge as requested.
- B.2** Per month; per unit charge ongoing until Customer submits a request to cancel.
- B.3** Per hour; per work order, project, or quote.

C. CUSTOMER RESPONSIBILITIES

Customer will:

- C.1** Determine the Services needed, including any adjustments to ongoing Services.
- C.2** Initiate or cancel any Services via submission of a Help Desk Ticket. Contact County Help Desk by calling: 909-884-4884 or isdhelpdesk@isd.sbcounty.gov (email for non-urgent requests only).
- C.3** Promptly inform County, in writing, of any pending changes in programs/funding applicable to Services provided herein.

D. COUNTY RESPONSIBILITIES

County will:

- D.1** Provide the Services requested by Customer, subject to ITD's approval, and in accordance with established work schedules and County Board of Supervisor (Board) approved service rates in effect at the time Service is provided.
- D.2** Perform the Services in a workmanlike manner, but County assumes no liability for failure to provide or delay in providing Services under this Contract.
- D.3** Furnish the necessary equipment and personnel to perform the Services, but County assumes no liability for equipment failure or adverse consequences cause by such failed equipment.

E. GENERAL CONTRACT REQUIREMENTS

E.1 Contract Amendments

Both parties agree that any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Customer and County.

E.2 Contract Assignability

Without the prior written consent of the County, the Contract is not assignable by Customer either in whole or in part.

E.3 Permits

Customer is responsible for obtaining and paying any costs of all permits, licenses or approvals by any regulatory bodies having jurisdiction over the uses authorized herein, as appropriate.

E.4 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

E.5 Change of Address

Customer shall notify the County, in writing, of any change in mailing address within ten (10) business days of the change.

E.6 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

E.7 Confidentiality

To the extent applicable, if Customer is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor must comply with the provisions of the California Consumer Privacy Act (CCPA). (Cal. Civil Code §§1798.100, et seq.). For purposes of this provision, "business," "consumer," and "personal information" shall have the same meanings as set forth at Civil Code section 1798.140. Customer must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Customer must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of this Contract. Customer must immediately provide to the County any notice provided by a consumer to Customer pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Contract. Customer must immediately notify the County if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

Customer shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Customer or an agent of Customer or otherwise made available to Customer or Customer's agent in connection with this Contract; or, (2) information and/or data acquired, obtained, or learned by Customer or an agent of Customer regarding this Contract.

For the purposes of this provision and consistent with California Civil Code Section 1798.29, PII, is any information that can be used to distinguish or trace an individual's identity, for example, any combination of name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

E.8 Primary Point of Contact

Customer will designate an individual to serve as the primary point of contact for the Contract. Customer shall not change the primary contact without prior written notice to the County. Customer will also designate a back-up point of contact in the event the primary contact is not available.

E.9 Contract Authorization

Customer warrants and represents that the individual signing this Contract is a properly authorized representative of the Customer and has the full power and authority to enter into this Contract on the Customer's behalf.

E.10 County Representative

The County Chief Information Officer or his/her designee shall represent the County in all matters pertaining to the Services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by County.

E.11 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is made in violation of the provisions of this Contract.

E.12 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

E.13 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

E.14 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the parties hereto, nor shall either party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

E.15 Release of Information

No news releases, advertisements, public announcements, or photographs arising out of the performance of the Contract or Customer's relationship with County may be made or used without prior written approval of the County, as applicable.

E.16 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

E.17 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided under this Contract is served upon Customer or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Customer and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed.

E.18 Termination for Convenience

The County and the Customer each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the Services provided hereunder. Upon such termination, payment will be made to the County for Services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice County shall promptly discontinue Services unless the notice directs otherwise.

E.19 Contract Exclusivity

This is not an exclusive Contract. Customer reserves the right to enter into a contract with other contractors for the same or similar services. The Customer does not guarantee or represent that

the County will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

E.20 Information Dispute Resolution

In the event the Customer determines that Service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith, and recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

E.21 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, and San Bernardino District.

F. TERM OF CONTRACT

This Contract is effective as of July 1, 2023 (Effective Date) and remains in effect for a period of five (5) years, unless terminated earlier in accordance with provisions of this Contract.

G. TERMINATION OR SUSPENSION OF SERVICES

G.1 Immediate Suspension, Uncured Termination

The County may, in its sole discretion and without prior notice, immediately suspend all or part of the Services for breach of any of the conditions identified below. The County will provide Customer a written notice of breach and allow the Customer 30 days to correct the condition giving rise to such breach. If the Customer fails to remedy the breach within the 30-day cure period, the County may immediately terminate the Services with no further notice required.

G.1.1 Customer shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract. Customer shall ensure that it has all necessary licenses and permits required by the laws of the United States, State of California, County, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Customer shall notify County immediately of loss or suspension of any such required licenses and permits.

G.1.2 Customer represents and warrants to County that (i) the information Customer provides in connection with registration for the Services is accurate and complete; (ii) Customer's use of the System is not illegal, defamatory, malicious, harmful, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age; (iii) Customer's use of the Services complies with all applicable laws, rules and regulations; (iv) Customer has obtained all consents and licenses required to legally access and use the System; (v) the execution and delivery of this Agreement will not conflict with, or violate any provision of, Customer's charter, by-laws or other governing documents; and (vi) Customer has otherwise taken all necessary steps to legally execute this Agreement.

G.1.3 Customer agrees to abide by all existing and future security practices, policies and protocols established by the County, which the County has established to ensure the integrity of the System. Customer understands that the County closely monitors the System and may perform periodic security audits to provide insight into any potential abnormalities that may impact ensuring confidentiality, integrity, and availability.

G.1.4 Customer agrees to implement measures that are reasonable for Customer's use of the System to prevent interference with the operation of the System. **NEITHER COUNTY**

NOR ANY OF ITS EMPLOYEES, AGENTS, REPRESENTATIVES, SERVICE SUPPLIERS OR LICENSORS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO, MISUSE OF, CUSTOMER'S INABILITY TO ACCESS, OR DAMAGE TO THE SYSTEM OR CUSTOMER'S FIELD EQUIPMENT, EXCEPT TO THE EXTENT CAUSED BY COUNTY'S NEGLIGENCE OR INTENTIONAL MISCONDUCT, UNLESS AND ONLY TO THE EXTENT THAT THIS DISCLAIMER IS PROHIBITED BY APPLICABLE LAW.

G.2 Immediate Termination

The County may, in its sole discretion and without prior notice, immediately suspend or terminate all or part of the Services for any of the conditions identified below. The County will promptly provide Customer a written notice of termination or suspension of Services to Customer.

G.2.1 County discovers that Customer provided false registration information, or that Customer lacked the capacity to enter into this Agreement at the time of its consummation;

G.2.2 County determines, in its sole discretion, that Customer's use of the Services poses a threat or an adverse effect to the security, privacy, or performance of the System or to any of County's other users or suppliers;

G.2.3 County determines, in its sole discretion, that Customer's use of the Services is illegal;

G.2.4 County reasonably believes that Customer's use of the Services has or will subject County to civil or criminal liability;

G.2.5 Customer fails to make any payment when due; or

G.2.6 Customer breaches any of the other material terms and conditions in this Agreement.

H. FISCAL PROVISIONS

H.1 There is no minimum or maximum amount of payment under this Contract.

H.2 Services are charged equitably to all customers in accordance with State Controller's Handbook of Cost Plan Procedures for California Counties.

H.3 Charges will be based on actual usage at the rates effective at the time Services are rendered (see Attachment A "ITD Rate Sheet – External Customers" and Attachment C "Wide Area Network Services", if applicable). Rates are reviewed and subject to change annually based on the cost to provide services to Customers and are effective July 1st of each year. Rates are also subject to change throughout the year via a mid-year rate change, if deemed appropriate based on the cost to provide services to Customers being significantly higher or lower than anticipated during the annual review. County will not amend this Contract due to rate changes or changes in usage amounts by Customer. Attachment A includes the list of County service rates effective at the time this Contract is entered into. County will attempt to provide at least thirty (30) days advance written notice of any rate change, which will be sent to Customer at the following address:

City of Upland
ATTN: Contracts Management and Accounts Payable
1499 W. 13th Street
Upland, CA 91786

H.4 Services will be billed on a monthly basis for actual expenses incurred and claimed by ITD for the preceding month.

H.4.1 For Customers that use the County's Enterprise Financial Management System:

Monthly charges will be handled by an automated transfer processed by ITD via the County's Enterprise Financial Management System. A copy of the billing statement can be accessed via the ITD Billing System by Customer, provided that Customer has the necessary permission on the County's network.

H.4.2 For Customers that do not use the County's Enterprise Finance Management System:

County will mail an invoice on a monthly basis starting on the Effective Date of this Contract, or starting on the installation or implementation date, if applicable. Payment shall be due sixty (60) days from date of invoice.

Payment can be made by check or electronic funds transfer (EFT). Checks shall be made payable to San Bernardino County. Customers requesting to make payments to County via electronic funds transfer (EFT) directly deposited into the County's designated bank account shall provide County with instructions to process EFT payments.

Payment address is:

Innovation and Technology Department
670 E. Gilbert Street, First Floor
San Bernardino, CA 92415-0915
Attn: Administration Services

I. DEFAULT

If the Customer does not make timely payment of amounts due under this Contract or breaches any term or condition of this Contract, County may declare immediately due and payable the entire unpaid amount, plus all other amounts due hereunder, less any unearned charges.

J. INDEMNIFICATION

The County agrees to defend and indemnify the Customer and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising solely out of the acts, errors or omissions of County in the performance of this Agreement, except where such indemnification is prohibited by law. At its sole discretion, Customer may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve County of any obligation imposed by this Contract. Customer shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense. Customer hereby agrees to defend and indemnify the County, its agents, officers and employees from any claim, action, or proceeding against County, arising solely out of the acts or omissions of Customer in the performance of this Agreement. At its sole discretion, County may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve Customer of any obligation imposed by this Contract. County shall notify Customer promptly of any claim, action or proceeding and cooperate fully in the defense. In the event that County and/or Customer are determined to be comparatively at fault for any claim, action, loss or damage that results from their respective obligations under this Agreement, County and/or Customer shall indemnify the other to the extent of its comparative fault.

K. INSURANCE

County is an authorized self-insured public entity for purposes of General Liability and warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

L. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Innovation and Technology Department	City of Upland
670 E. Gilbert Street, First Floor San Bernardino, CA 92415-0915	1499 W. 13 th Street Upland, CA 91786
Attn: Administration Services	Attn: Sue Gutierrez

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

M. FORCE MAJEURE


Except for payment obligations and as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party. County shall not be held liable for any delay or failure in performance of any part of this Contract from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, strikes, labor disputes, embargoes, epidemics, war, terrorist acts, riots, insurrections, fire, explosions, earthquakes, nuclear accidents, floods, power blackouts, brownouts, or surges, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure product or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

N. ENTIRE AGREEMENT

This Contract, including all Attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will. This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

IN WITNESS WHEREOF, San Bernardino County and Customer have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

► 
Lynn Fyhrlund (Jul 5, 2023 08:09 PDT)

Lynn Fyhrlund, Chief Information Officer

Dated: Jul 5, 2023

City of Upland

By ►

(Authorized signature - sign in blue ink)

Name

Michael Blay

(Print or type name of person signing contract)

Title

City Manager

(Print or Type)

Dated:

Address

460 N. Euclid Ave

Upland, CA 91783

FOR COUNTY USE ONLY

Approved as to Legal Form

► County Counsel
Date

ATTACHMENT A
ITD RATE SHEET – EXTERNAL CUSTOMERS
2022-23 Approved Rates

Service	Service Description
Business Solutions Development	
Business Solutions Labor Services	Hourly labor programming services for the development, enhancement and maintenance of business solutions on a variety of hardware and software platforms.
Computer Operations	
CPU Usage	Access to applications and processing of data on the enterprise server.
Network Labor Services	Hourly labor services for Local Area Network and Wi-Fi services. Includes labor services to connect a location to the Wide Area Network (WAN) via the Internet and to connect a site to the County's WAN. Customer is responsible for all costs related to circuit installation, ongoing circuit charges, and office cabling.
Payroll System Services (EMACS)	Maintenance, support, and enhancements of the EMACS system and infrastructure.
Virtual Private Network (VPN)	Access for a single user to remotely connect to the wide area network.
Geographic Information System	
Aerial Imagery	Augments and enhances GIS data visualization tools, applications and solutions developed for County departments and the public.
Telecommunication Services	
Public Safety Communications Services:	
Dispatch Console Access, Maintenance, and Replacement	Repair, maintenance, programming, and replacement of Motorola radio dispatch console equipment.
Pager Access	Access for a single pager to connect to the County's Digital Paging System.
Radio Access and Maintenance	Access for a single radio connected to the County's Public Safety Radio frequencies and repair and maintenance of that radio or radio's accessories, excluding batteries; covers normal wear and tear.
Radio Labor Services	Hourly labor services for installation and repair of radio and other related equipment in vehicles, not including materials; or escort of other government agencies to County communication sites to access their equipment.
Radio Mobile Data Access	Access and maintenance for radio modems in vehicles.
Telephone Services:	
Dial Tone	Single line telephone services. Includes voicemail, local, long distance, Telephone Service Specialist consulting services, and software changes.
Telecommunication Labor Services – Normal Hours	Hourly labor services for telephone, data, cabling, repair, and other specialized services – Normal Hours (Monday through Friday, 7:00 am – 5:00 pm, excluding weekends and holidays).
Telecommunication Labor Services – After Hours	Hourly labor services for telephone, data, cabling, repair, and other specialized services – After Hours (Monday through Friday, 5:00 pm – 7:00 am, and all weekends and holidays).
All Funds	
Parts and Materials	Parts and Materials provided per customer request.

Service	2022-23 Rate	Charge Measurement
Business Solutions Development		
Business Solutions Labor Services	\$134.58	Per hour
Computer Operations		
CPU Usage	\$94.78	Per CPU hour
Network Labor Services	\$127.40	Per hour
Payroll System Services (EMACS)	\$6.49	Per payroll warrant
Virtual Private Network (VPN)	\$4.43	Per VPN/month
Geographic Information System		
Aerial Imagery	Cost Pass Through	Per customer
Telecommunication Services		
Public Safety Communications Services:		
Dispatch Console Access, Maintenance, and Replacement	\$634.16	Per console/month
Pager Access	\$15.45	Per pager/month
Radio Access and Maintenance	\$54.38	Per radio/month
Radio Labor Services	\$84.73	Per hour
Radio Mobile Data Access	\$103.58	Per modem/month
Telephone Services:		
Dial Tone	\$28.34	Per phone/month
Telecommunication Labor Services – Normal Hours	\$86.95	Per hour
Telecommunication Labor Services – After Hours	\$100.52	Per hour
All Funds		
Parts and Materials	Actual cost plus 15% processing and handling	Per order

ATTACHMENT B PUBLIC SAFETY COMMUNICATIONS SERVICES

I. SERVICES UNDER THIS ATTACHMENT

This Attachment B is applicable for Public Safety Communications services which consist of the following services as defined in Attachment A, "ITD Rate Sheet – External Customers", and as further defined within this Attachment B:

- Dispatch Console Access, Maintenance, and Replacement
- Pager Access
- Radio Access and Maintenance
- Radio Labor Services
- Radio Mobile Data Access

II. SAN BERNARDINO COUNTY PUBLIC SAFETY COMMUNICATIONS SYSTEM ACCESS

The San Bernardino County (County) Public Safety Communications System, hereinafter called "System", is composed of two components known as the backbone and field equipment. The Backbone is defined as a portion of the System that provides the means by which dispatch centers, public safety locations, mobile radios, and portable radios communicate with each other through voice transmission. It is composed primarily of fixed relay equipment and associated centralized dispatch and control equipment, including Radio Mobile Data Access modems owned and maintained by the County. Field Equipment is defined as that portion of the System that uses the Backbone for communications and consists primarily of local dispatch equipment, mobile radios, and portable radios.

a) System Purpose and Objective

The primary purpose of the System is to serve the County and accommodate participation by public safety and local governmental agencies in the County. Secondly, other governmental and safety related non-governmental users may be allowed access to the System as conditions warrant and as provided for by this Contract. During a disaster, public safety users will receive priority in all areas, based entirely on emergency response responsibilities and access to the System by non-public safety users may be limited or suspended.

b) Backbone Operational Policies

Public safety and local governmental users shall have operational priority over all other users. In the case of a disaster, public safety users affected by the disaster shall have operational priority over all other public safety users, with County public safety users afforded the highest priority.

County has the final authority, at all times, to exercise discretionary control over the Backbone, and to otherwise manage Backbone traffic to ensure the ability of immediate-need public safety agencies to effectively communicate and for the overall benefit of all Backbone users. **EXCEPT FOR GROSSLY NEGLIGENT ACTS OR OMISSIONS IN EXERCIZING ITS AUTHORITY UNDER THIS SECTION, THE COUNTY WILL HAVE NO LIABILITY WHATSOEVER FOR SYSTEM ALLOCATION DECISIONS.**

c) Backbone Modification (Post Backbone Implementation)

(i) The County may determine that Backbone modification is needed from time to time to meet the changing needs of County and/or users.

(ii) Costs for Backbone modifications made after the execution of this Agreement shall be assessed as follows:

- (a) If the modification benefits all users, each user will bear the pro rata cost of the modification based on the user's derived benefit. Derived benefit shall be determined as a percentage based on the number of units that are in service by each end user divided by the total units being serviced by the Backbone infrastructure at the time the modification is made.
- (b) If the modification improves service only for users in a definable local area, all users in such definable local area, and participating in and receiving direct benefit from the modification, shall share the costs for its implementation, operation, and maintenance equally.
- (c) If the modification only applies to a specific subset of users, the subset of users that caused the modification shall share the costs of the modification its implementation, operation, and maintenance equally.

(d) if the modification is requested by, and benefits only Customer, Customer shall bear the entire cost of the modification, its implementation, operation, and maintenance.

(iii) Customer acknowledges and agrees that the County is the sole decision-maker in determining the allocation of costs for all Backbone modifications.

d) Field Equipment

(i) Customer shall, at Customer's expense and future financial liability, purchase and maintain its own Field Equipment.

(ii) Customer shall, at Customer's expense, expand or modify existing Customer structures, facilities, or dispatch centers as required to support the installation of Customer's Field Equipment.

(iii) Customer is solely responsible for ensuring that the Field Equipment is compatible with the System.

e) Related Non-Governmental Users

(i) At times, Customer's non-governmental users may have a need to communicate with public safety/local government services during emergencies, or in their daily support of public safety/local government services. Where it is not in conflict with Federal Communications Commission (FCC) Regulations or other laws, and subject to approval by County, Customer's non-governmental users may be allowed to have Backbone access. However, Customer's non-governmental use of the Backbone for day-to-day operations shall be on a non-interfering, prioritized basis, and subject to channel loading limits, as determined by County.

(ii) County shall be responsible for coordinating Backbone access and implementing terms and conditions of such use, including one-time and recurring costs to be paid by new users.

(iii) County shall monitor non-governmental users of the Backbone. If the needs of public safety/local government expand to the point of competition with non-governmental use of the Backbone, Customer's non-governmental users may be required by the County to terminate their use of the Backbone.

(iv) Customer's non-governmental users will be removed in reverse order of their entry into the System, i.e., the last user to enter the System will be the first user to be removed unless any other Customer's non-governmental user voluntarily relinquishes access.

(v) County will provide Customer ninety (90) days prior written notice of termination of access to allow Customer's non-governmental users to remove their equipment or transfer their operations to another communications system. At the expiration of the notice period, the Customer's non-governmental users will be denied access to the System.

f) Backbone Ownership

It is understood that County has ownership of the Backbone, and upon any termination of this Agreement by County or by Customer, any and all rights, title, and interest in the Backbone shall remain with the County.

III. **PUBLIC SAFETY RADIO AND EQUIPMENT MAINTENANCE SERVICES**

The County Innovation and Technology Department (ITD) offers a number of radio and equipment maintenance services to public safety and local governmental agencies in the County of San Bernardino, as well as other governmental and safety-related non-governmental users. Services provided under this Contract consist of Public Safety Radio, Backbone radio equipment maintenance, radio, mobile/portable radio equipment maintenance, Mobile Data Access Modems maintenance, public safety radio dispatch equipment maintenance, and radio battery replacement.

a) County Responsibilities in Providing Maintenance Services

If providing maintenance services to Customer, ITD:

(i) Will maintain sufficient spare mobile radios to temporarily replace equipment that is removed from service for maintenance reasons;

(ii) Will remove, reinstall, and maintain Customer-owned radios or other covered equipment that has become defective from normal wear and usage, as solely determined by ITD, and perform repairs at ITD or elsewhere as determined by ITD;

- (iii) Will provide a two-hour response time from notification for problems with radio dispatch equipment and Backbone radio equipment, and reasonable response time during normal County work hours on normal County business days for maintenance of Mobile Data Access Modems, and mobile/portable radios with afterhours service available at premium rates;
 - (iv) Reserves the right to subcontract for all or part of services;
 - (v) Assumes no liability for equipment failure in the field, or for any adverse consequences caused by such failed equipment;
 - (vi) Assumes no liability for failure to provide or delay in providing services, under this Agreement.
- b) County Services Provided on a Time and Materials Basis
- (i) Service required due to Customer abuse or abnormal wear;
 - (ii) Service to correct attempts by Customer or unauthorized third parties to repair or modify equipment;
 - (iii) Facility electrical problems at Customer location(s) or vehicle electrical problems;
 - (iv) Services in addition to those identified above, to the extent feasible and cost-effective, as determined by ITD;
 - (v) Program or re-program radios at Customer's request or in response to abnormal wear and usage, except for County-originated systems reconfigurations;
 - (vi) Replacement of accessories and consumable items, including batteries, antennas, and microphone cords;
 - (vii) Radio reactivations are processed within 5 business days after the request is received and are billed for each serial number reactivated at one-half of the Board-approved hourly rate in effect at the time reactivation is ordered.
- c) Customer Responsibilities
Customer shall procure its own Field Equipment and shall:
- (i) Provide ITD with model and serial numbers of all equipment to be covered under this Contract.
 - (ii) Designate an individual as the single point of contact for maintenance coordination.
 - (iii) Coordinate and schedule service requirements with ITD reasonably in advance whenever possible.
 - (iv) Advise ITD of all radio relocations or reassignments within their fleet, within 24-hours of relocation or reassignment.
 - (v) Have sole responsibility to maintain a current inventory of its Field Equipment using the System and to approve and validate billing of that inventory. **Customer must notify ITD in writing when any Field Equipment is no longer in use by Customer, including notification of damaged, lost, or stolen Field Equipment. ITD will continue to bill Customer until notification is received, and Customer remains responsible for payment of charges for such Field Equipment.** If Customer identifies discrepancies between billing and its inventory, a dispute notice should be sent by e-mail to jsdbilling@isd.sbcounty.gov along with a justification and related documentation. If ITD determines that a charge was billed incorrectly, ITD will issue the applicable credit on the next monthly billing cycle.





CON-ITD 23013-City of Upland Radio Svcs AGENCY SIGNED

Final Audit Report

2023-07-05

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